

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

CHRISTOPHER ALLEN POSEY,)
Plaintiff,)
VS.) No. 19-1194-JDT-cgc
KARL JACKSON, ET AL.,)
Defendants.)

**ORDER DISMISSING CASE,
CERTIFYING AN APPEAL WOULD NOT BE TAKEN IN GOOD FAITH
AND NOTIFYING PLAINTIFF OF APPELLATE FILING FEE**

On October 29, 2019, the Court issued an order dismissing Plaintiff Christopher Allen Posey's *pro se* complaint and granting leave to file an amended complaint. (ECF No. 11.) Posey was warned that if he failed to file an amended complaint within twenty-one days, the Court would assess a strike pursuant to 28 U.S.C. § 1915(g) and enter judgment. (*Id.* at PageID 34-35.)

Posey has not filed an amended complaint, and the time within which to do so has expired. Therefore, this case is DISMISSED in its entirety, and judgment will be entered in accordance with the October 29, 2019, order dismissing the original complaint for failure to state a claim. Posey is assessed his first strike under § 1915(g). This strike shall take effect when judgment is entered. *See Coleman v. Tollefson*, 135 S. Ct. 1759, 1763-64 (2015).

It is CERTIFIED, pursuant to 28 U.S.C. § 1915(a)(3) and Federal Rule of Appellate Procedure 24(a), that any appeal in this matter by Posey would not be taken in good faith.

The Court must also address the assessment of the \$505 appellate filing fee if Posey nevertheless appeals the dismissal of this case. A certification that an appeal is not taken in good faith does not affect an indigent prisoner plaintiff's ability to take advantage of the installment procedures in the Prison Litigation Reform Act (PLRA), 28 U.S.C. §§ 1915(a)-(b). *See McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997), *partially overruled on other grounds by LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013). *McGore* sets out specific procedures for implementing the PLRA. Therefore, Posey is instructed that if he wishes to take advantage of the installment method for paying the appellate filing fee, he must comply with the PLRA and *McGore* by filing an updated *in forma pauperis* affidavit and a current, certified copy of his inmate trust account statement for the last six months.

The Clerk is directed to prepare a judgment.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE